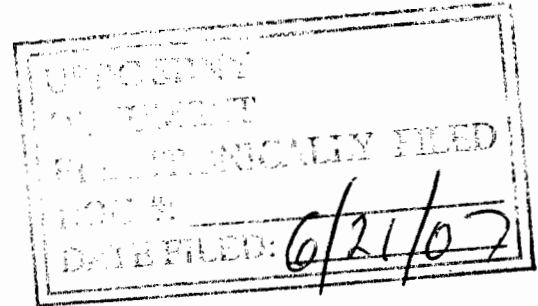


Lynch, J

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



MARVIN BERNSTEIN, Director,
Mental Hygiene Legal Service,
First Judicial Department, and
MICHAEL B., EUGENE C., and
EDDIE L., patients at Kirby Forensic
Psychiatric Facility, on behalf of themselves
and on behalf of all others
similarly situated,

Plaintiffs,

-v.-

GEORGE E. PATAKI, in his official capacity as
Governor of the State of New York,
SHARON CARPINELLO, in her official capacity
as Commissioner of the
New York State Office of Mental Health,
and EILEEN CONSILVIO,
in her official capacity as Director of Kirby
Forensic Psychiatric Facility,

Defendants.

05 Civ. 1322 (GEL)
STIPULATION

IT IS HEREBY STIPULATED AND AGREED, by and between the attorneys for the
respective parties hereto, subject to the approval of the court, that the caption in the above-
captioned case is amended to reflect the following:

1. Plaintiffs Michael B., Eugene C., and Eddie L. have now been transferred from Kirby
Forensic Psychiatric Center and are no longer members of the patient class described in the
complaint at ¶ 3. This action is therefore moot as to them. Defendants will not object to Marvin
Bernstein, as Director of the Mental Hygiene Legal Service, asserting associational standing on

behalf of the patient class described in the Complaint at ¶ 3. *See Bernstein v. Pataki*, No. 06-0481 at *3 (2d Cir. 2007) (summary order) (discussing Mr. Bernstein's standing).

2. The parties also agree that, pursuant to Fed. R. Civ. P. 25 (d), the originally-named Defendants, sued in their official capacities, no longer occupy the offices identified in the complaint. The following Defendants must be substituted in this action: ELIOT SPITZER, in his official capacity as Governor of the State of New York; MICHAEL HOGAN, in his official capacity as Commissioner of the New York State Office for Mental Health, and STEVE RABINOWITZ, in his official capacity as Acting Director of Kirby Forensic Psychiatric Center.

3. Accordingly, the parties agree that the caption in this case should now appear as follows:

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
MARVIN BERNSTEIN, Director,	:	
Mental Hygiene Legal Service,	:	
First Judicial Department,	:	05 Civ. 1322 (GEL)
	:	
Plaintiff,	:	
	:	
-v.-	:	
	:	
ELIOT SPITZER, in his official capacity as	:	
Governor of the State of New York,	:	
MICHAEL HOGAN, in his official capacity	:	
as Commissioner of the	:	
New York State Office of Mental Health,	:	
and STEVE RABINOWITZ,	:	
in his official capacity as Acting Director of	:	
Kirby Forensic Psychiatric Facility,	:	
	:	
Defendants,	:	
-----X	:	

4. Finally, it is hereby stipulated and agreed that Plaintiffs' pending Motion for Class

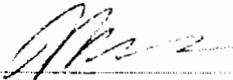
Certification (Docket Doc. #13) is withdrawn in light of the parties' agreement in Paragraph 1, above.

Dated: 6/20/07



MARVIN BERNSTEIN, Director
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Dated: 6/20/07



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Phone: (212) 416-8534
Fax: (212) 416-6075

SO ORDERED:

Dated:


Gerard E. Lynch
United States District Judge